

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency)	
)	
Petition for Approval of the IPA's)	ICC Docket No. 14-0651
Supplemental Procurement Plan Pursuant to)	
Section 1-56(i) of the IPA Act)	

**VERIFIED REPLY TO RESPONSES
ON BEHALF OF THE ILLINOIS POWER AGENCY**

The Illinois Power Agency ("IPA"), by and through its attorney, respectfully submits its Verified Reply to Parties' Responses in connection with its Supplemental Procurement Plan ("Supplemental Plan") submitted for Illinois Commerce Commission ("ICC" or "Commission") approval on October 28, 2014, as provided for in Section 1-56(i) of the Illinois Power Agency Act ("IPA Act"). The IPA's Reply addresses Responses to the following topics: (I) the introduction of a third system size category in procurement; (II) comments regarding procurement from "new" or "existing" systems; and (III) whether "revenue quality" or "utility grade" metering is more appropriately used in the IPA's Plan.

I. PROCUREMENT SIZE CATEGORIES

The IPA appreciates feedback from parties in Responses regarding the introduction of an additional size category within the <25 kW to 2 MW market segment. While the IPA remains unconvinced that such a category is justified, these comments have helped the IPA develop a better understanding of parties' concerns and the practices of other states. Comments such as SunEdison's statement that a 500 kW size delineation may be appropriate due to inverter size (SunEdison Response at 9-10) provide a sound rationale for the break point for a new size category, and the IPA appreciates such concrete substantiation.

The Agency is uncertain, however, that a 25 kW to 500 kW size category would spur increased participation from the small commercial systems referenced as a concern by ISEA in

Objections, as even a 100 kW system would still be forced to compete against significantly larger projects operating with different cost structures. (*See* ISEA Objections at 3-5; IPA Response at 12-13). The Agency is likewise unconvinced that all bids would come in from systems at or near 2 MW in size without the introduction of a third size category. Many factors contribute to a new photovoltaic project's size—including available capital, physical space, and on-site energy load—and the dearth of existing 2 MW photovoltaic systems in Illinois (despite net metering availability for customers with load up to 2 MW) may demonstrate that the largest allowable system is unlikely to be developed for other reasons.

SunEdison's proposal also gives no indication of how a third size category would be applied to bid selection, whether separate budgets or procurement targets would be utilized, and what balance would be sought from each category. It is difficult to envision how the Commission could adopt a third size category without an appropriately specific and detailed proposal in the record or a demonstration of how any such proposal would operate consistent with constraints enumerated in Section 1-56(i). In Objections, ISEA provided some specifics by proposing dividing the IPA's procurement budget through proposed allocations by size category, featuring 50% of the budget to be allocated to systems below 25 kW in size. (ISEA Objections at 4-5). In Response, the IPA pointed out that the 50% requirement for systems below 25 kW in size applies to RECs, and not procurement budgets, and thus a delineation based on a 50% budget may effectively ensure non-compliance with the 50% REC procurement requirement enumerated in Section 1-56(i)(1). (IPA Response at 13). This issue is critical: a non-statutory size-based delineation must operate consistent with the size-based delineation present in the law. By failing to specify how a new size category would operate and whether it would be budget- or

REC-based (or what allocation is requested between categories and why), SunEdison's proposal fails to address this and other concerns.

Nonetheless, the Agency notes that its first procurement event features a 500 kW size limit, allowing an early opportunity for small systems to participate in the process without pressure from larger systems. For its subsequent procurement events with a 2 MW (DG) size limitation, procurement budgets expand significantly.

While the IPA believes that a third size category has not been sufficiently justified, it remains convinced that it indeed has statutory authority to conduct a procurement featuring a third size category so long as 1) the procurement remains designed to achieve 50% of procured RECs from systems under 25 kW in size, and 2) bids are selected on the basis of price. ComEd disagrees, arguing instead that Section 1-56(i)(4)(D)'s requirement that bids be selected "solely on the basis of price" would bar the introduction of a third size category. (ComEd Response at 1-2). The IPA believes that this phrase is best understood in context. The full text of Section 1-56(i)(4)(D), "Standard Contract Forms and Credit Terms and Instruments," reads as follows:

The procurement administrator, in consultation with the Agency, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices as well as include any applicable State of Illinois terms and conditions that are required for contracts entered into by an agency of the State of Illinois. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. Contracts for new photovoltaics shall include a provision attesting that the supplier will use a qualified person for the installation of the device pursuant to paragraph (1) of subsection (i) of this Section. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the parties as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. **The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.**

(20 ILCS 3855/1-56(i)(4)(D)) (emphasis added). Nothing about a third procurement category would compromise the ability of the Agency to use standard contract forms, preclude post-bid

negotiations, establish contract terms in advance, and select winning bids on the basis of price. A third procurement category would merely impact the context in which that selection is made. This is similar to the Agency's uncontested proposal to stage its procurement events: by ComEd's logic, a bid in a procurement event next spring is technically "shielded" against competing bids in a procurement conducted in the following fall, and thus cannot be selected absent a direct price-based comparison. Instead, for both a third size category and for staged procurement events, a direct comparison is made to other applicable bids with selection solely on the basis of price. Bid selection proceeds entirely consistent with the law, and rules governing the procurement established through the Supplemental Plan development and approval process (such as a third size category) simply alter the context in which the lowest priced bid is selected.

II. PROCUREMENT FROM "NEW" SYSTEMS

The IPA appreciates the comments of Citizens Utility Board regarding the value of procuring from "new" systems to achieve the "least total cost over time." (CUB Response at 2-3). The REC price differential between photovoltaics and wind resources is stark, and CUB's analysis constitutes a compelling and concrete illustration of the potential value associated with focusing the supplemental procurement on the development of new photovoltaic systems. The IPA would merely add that both Section 1-56 and Section 1-75 feature separate sub-target "carve-outs" for both photovoltaics *and* distributed generation. As a result, a supplemental procurement focused on new DG photovoltaic resources provides value not only through potentially reducing SREC prices in future PV procurements, but also by ensuring that future DG procurements are more competitive.¹

¹ For the reasons explained in its Plan and Response, the IPA remains convinced that the **value** of a REC must be taken into account and this procurement cannot simply be focused achieving the lowest possible REC price. To this end, the Commission may consider that because only already-collected funds will be spent under a Section 1-56(i) procurement, immediate "costs" will always be neutral – no ratepayer or ARES will be charged more or less based

With respect to the IPA's focus on "new" resources in its Supplemental Plan, ELPC states the following:

There was substantial discussion of this issue in the IPA workshop process and different points of view were expressed by different parties. The IPA is in the best position to balance these competing policy preferences, and the Illinois General Assembly gave the IPA the discretion to make the decision about the optimal resource selection to best meet the policy goals of the state. The ICC should not overturn this careful exercise of the IPA's discretion simply because Ameren and ComEd prefer a different outcome.

(ELPC Response at 2). The IPA appreciates these comments, and would simply add that feedback received during its workshop process was indeed weighted toward focusing on "new" resources in this procurement. While not entirely determinative, the IPA did note this feedback and account for it in developing its Supplemental Plan.

III. "REVENUE QUALITY VS. "UTILITY-GRADE" METERS

In Response to Ameren Illinois's suggestion that the IPA refer to "revenue quality" meters rather than "utility grade," the IPA stated that "[i]f these terms are indeed co-extensive, the IPA does not oppose this revision." (IPA Response at 18).

With respect to meters, Section 1-56(i) provides only that "[a]n individual distributed renewable energy generation device owner shall have the ability to measure the output of his or her distributed renewable energy generation device." (20 ILCS 3855/1-56(i)). The IPA does not seek to heighten this standard and potentially create new barriers to participation, especially against the backdrop of a law seemingly designed to encourage participation from smaller systems (by requiring that 50% of RECs be procured from systems below 25 kW in size). As currently understood by the IPA, the term "revenue quality" would not be onerously restrictive and may not be coextensive with "revenue grade" as referenced by ISEA in Response. (*See* ISEA Response at 5-6).

on the chosen budget, selected procurement approach, or resulting REC prices – thus stressing the need to focus on the development of resources to achieve reduced costs "over time."

CONCLUSION

The IPA respectfully recommends that the Commission resolve contested issues consistent with the IPA's positions articulated herein.

Dated: December 2, 2014

Respectfully submitted,

Illinois Power Agency

By:

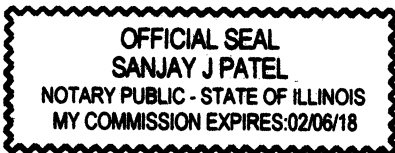
_____/s/ Brian P. Granahan_____

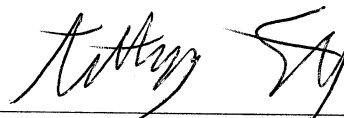
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STATE OF ILLINOIS)
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COUNTY OF COOK)

VERIFICATION

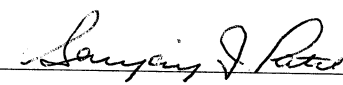
Anthony M. Star, being first duly sworn, on oath deposes and says that he is the Director for the Illinois Power Agency, that the above Verified Reply to Responses on Behalf of the Illinois Power Agency has been prepared under his direction, he knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief.





Anthony M. Star

Subscribed and sworn to me
This 2nd day of December, 2014



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NOTICE OF FILING

Please take notice that on December 2, 2014, the undersigned, an attorney, caused the Verified Reply to Responses on Behalf of the Illinois Power Agency to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission in a new proceeding:

December 2, 2014

/s/ Brian P. Granahan_____
Brian P. Granahan

CERTIFICATE OF SERVICE

I, Brian P. Granahan, an attorney, certify that copies of the foregoing document(s) were served upon the parties on the Illinois Commerce Commission's service list as reflected on eDocket via electronic delivery from 160 N. LaSalle Street, Suite C-504, Chicago, Illinois 60601 on December 2, 2014.

/s/ Brian P. Granahan_____
Brian P. Granahan